



**US Army Corps  
of Engineers**  
Omaha District

## **SPECIAL PUBLIC NOTICE**

**TO CONSIDER THE REISSUANCE OF THE  
PROHIBITIONS AGAINST THE USE OF CERTAIN  
MATERIALS AS FILL IN WATERS OF THE UNITED  
STATES**

**Issue Date: April 10, 2002**  
**Expiration Date: May 10, 2002**

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**REPLY TO:**

Mr. David LaGrone  
Regulatory Branch  
U.S. Army Corps of Engineers  
106 South 15th Street  
Omaha, Nebraska 68102

**30-Day Notice**

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The Omaha District, U.S. Army Corps of Engineers, by public notice on January 8, 1988 issued a generic prohibition against the discharge of specified materials as fill into waters of the United States under the Clean Water Act (33 U.S.C. 1344). These prohibitions were resubmitted to the public for reissuance on September 15, 1993. After considering the comments received, the prohibitions were reissued with minimal modification on March 21, 1994.

**The current generic prohibitions are as follows:**

1. Vehicle bodies, farm machinery and metal junk including appliances, containers and barrels (including plastic barrels).
2. The use of small aggregate, in the form of streambed material, for bank stabilization and erosion control below the ordinary high water mark of a waterway or wetland when the material to be discharged is removed from a stream or river for such purpose. Small aggregate from any source, placed below the ordinary high water mark of a waterbody or wetland when the proposed project will be unstable and subject to frequent failure.
3. The use of old or used asphalt as a fill material and the use of asphalt in general for bank stabilization or erosion control.
4. The use of organic debris (properly anchored trees and treetops are excluded).
5. Biodegradable building materials including wood debris, sheet rock, roofing materials and chemically treated materials subject to leaching when placed in an aquatic environment. The use of clean brick and broken concrete will continue to be allowed on a case by case basis. Broken concrete should be

free of exposed rebar and old asphalt.

6. Tires shall be prohibited unless placed in the form of a mat or other design and anchored to preclude entering the waterway.

**The current proposal:** Changes to the 1994 generic prohibitions are limited to the following:

Prohibition #1: The use of plastic barrels to identify swimming areas and "no wake" zones for power boats are excluded

Prohibition #2: The last sentence to state "... small aggregate, from a source other than a stream or river, shall not be placed below the ordinary high water mark...".

Prohibition #4: The use of organic materials (properly anchored trees and treetops are excluded). Anchored hay bales will be considered for use on a case by case basis.

Prohibition #5: Brick will no longer be permitted. The use of brick is extensively included with building material debris and is unstable. Further, even when used alone, the mass and weight of brick allows displacement during high flows. Broken concrete used below ordinary high water shall be no longer than 3.5 times the width of the piece.

Prohibition #6: The use of tires will be approved on a case-by-case basis, avoiding streams with high gradients and flow rates. If approved, cabling must be redundant to reduce the risk of structural failure.

The decision to modify the prohibitions, to continue the existing prohibitions or to discontinue their use will be based on an evaluation of the impacts, including cumulative impacts, on the public interest. The decision will also reflect the national concern for both the protection and wise use of our natural resources. The benefits associated with these prohibitions must be balanced against the reasonably foreseeable detriments. All factors relevant to this proposal will be considered and may include conservation, economics, aesthetics, wetlands, fish and wildlife, flood hazards, floodplain values, navigation, erosion and accretion, water quality, energy needs, safety, consideration of private property and the general needs and welfare of the public. Further, the evaluation of this proposal will include the application of the Section 404 (b)(1) guidelines promulgated by the Environmental Protection Agency (40 CFR 230).

The Omaha District, Corps of Engineers is employing this Special Public Notice to solicit comments, both pro and con, from the general public as well as Federal, state and local agencies and Indian Tribes. Comments will be employed in the development of an environmental assessment in compliance with the National Environmental Policy Act (NEPA). **Anyone wishing to comment regarding these generic prohibitions should submit written comments to Mr. David LaGrone, Regulatory Branch, U.S. Army Corps of Engineers, 106 South 15th Street, Omaha, Nebraska 68102. Comments must be received on or before the expiration date of the public notice to be considered a part of the official record. For additional information, you may call Mr. Martin Keller at telephone 479-855-3968 or by fax at 479-876-1386.**